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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fifth session

SUMMARY RECORD OF THE 45th MEETING IN 1990

Held at the Palais des Nations, Geneva,
on Monday, 10 December 1990, at 10 a.m.

Chairman: Mr. KOUZNETSOV

CONTENTS

Statement by the Chairman on the occasion of the anniversary of the adoption of the Universal Declaration of Human Rights

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (continued)

Islamic Republic of Iran (continued)

Dominican Republic (continued)

Organization of work (continued)

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The meeting was called to order at 10.20 a.m.

STATEMENT BY THE CHAIRMAN ON THE OCCASION OF THE ANNIVERSARY OF THE ADOPTION OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

1. The CHAIRMAN said that he wished to congratulate the members of the Committee, and the staff of the Centre for Human Rights, on the occasion of the anniversary of the adoption of the Universal Declaration of Human Rights by the General Assembly on 10 December 1948.

2. It was an undeniable fact that, following the adoption of the Declaration, many countries had chosen democracy and others had begun to move in that direction - a demonstration of the impact of the universal principles contained in the document.

3. He stressed the importance of the fact that the Committee acknowledged the interdependence of economic, social and cultural rights and of civil and political rights. The Declaration reaffirmed the paramount importance of fundamental rights such as the right of people not to suffer from poverty, to have work, to earn a decent salary and to enjoy an adequate standard of living.

4. The Committee played an important role as one of the United Nations bodies responsible for monitoring the implementation of human rights treaties. It was not a political organ. Its membership consisted of experts who carried on a dialogue with States parties with a view to helping Governments to acquire a better understanding of the contents of human rights and to promoting the further implementation of the Covenant. In that connection, the Committee had done extremely useful work in clarifying the provisions of the Covenant. It was playing an important role and would continue to do so in the future.

CONSIDERATION OF REPORTS (agenda item 7)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Islamic Republic of Iran (E/1982/3/Add.43) (continued)

5. At the invitation of the Chairman, Mr. Tabatabaee and Mr. Mohsen-Pour (Islamic Republic of Iran) took places at the Committee table.

6. Mrs. JIMENEZ BUTRAGUEÑO, presenting concluding observations on the report of the Islamic Republic of Iran (E/1982/3/Add.43), said that members had welcomed the positive and co-operative attitude shown by the Government of the Islamic Republic of Iran, which had made it possible to begin a dialogue with the country, as well as its intention to submit supplementary information to the Committee at its sixth session. That would enable the Committee to have an overall view of the situation of economic, social and cultural rights in Iran and of the Government's implementation of its obligations under the Covenant.

7. Although the report contained useful information on the rights referred to in articles 13 and 14 of the Covenant, it did not cover article 15 and the Committee had therefore requested supplementary information on that article.

8. The Committee had welcomed the efforts made by the delegation of Iran to respond to the list of issues prepared by the pre-sessional working group and the questions put by members of the Committee. However, some of those questions had not been answered.

9. The Committee had expressed its concern at the human rights situation in Iran as well as that of guarantees concerning respect for the fundamental freedoms of citizens, in particular the violations committed in the field of civil and political rights.

10. Bearing in mind that all human rights and fundamental freedoms were indivisible and interrelated, the Committee had expressed its fear that the deteriorating situation in the area of civil and political rights and fundamental freedoms in Iran might have a negative effect on the enjoyment of the rights recognized in articles 13 to 15 of the Covenant. In other words, some Iranian citizens might be deprived, either entirely or in part, of their rights to education and culture because they belonged to ethnic or religious minorities. In that connection, the Committee had expressed a desire to be informed of the situation concerning Armenians, Kurds and the Baha'i community and their participation in the educational cycle.

11. The Committee welcomed the offer by the Government to provide supplementary information on the status of women.

12. The Committee had expressed its concern at the fact that Iran had not yet instituted free and compulsory primary education, in accordance with article 13 (2) of the Covenant, and had hoped that the new plan of action undertaken by the Government would achieve that important objective in the short term.

13. Lastly, the Committee had indicated that it would welcome information concerning the application by Iran of the principle of freedom of education and of the right of children to be educated in conformity with the religious or moral convictions of their parents.

14. The Committee had expressed the hope that it would be possible to intensify the contacts between the Islamic Republic of Iran and the Centre for Human Rights and that, through technical assistance from the Centre and joint meetings, areas of difference between Islamic law and international law could be identified and the Government could thus be helped to bring its system into greater conformity with international norms, particularly with regard to human rights and fundamental freedoms.

15. Mr. ALSTON endorsed the observations just made by Mrs. Jimenez Butragueño. He expressed regret that the Committee had not received information on the situation of minority groups in the Islamic Republic of Iran.

16. Mr. GLAIEL said it was clear from the concluding observations that the Committee as a whole had appreciated the spirit of co-operation shown by the Government of the Islamic Republic of Iran. Members had welcomed the replies given by the delegation of that country to written questions and to the oral questions put by some experts. The Iranian delegation had made every effort to fulfil its obligations and had promised to submit supplementary information at a later date.

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17. With regard to the questions concerning the members of the Baha'i community and the Kurdish minority, he felt that the replies given adequately reflected the efforts being made by the Iranian Government.

18. Mrs. JIMENEZ BUTRAGUEÑO said that the replies given had been general and not specific. With regard to the situation concerning minorities and access to education, she stressed the need for more detailed information.

19. The CHAIRMAN said that the Rapporteur would take account of the discussion concerning the report of the Islamic Republic of Iran and include the concluding observations in the draft report, for consideration by the Committee. The Committee had thus concluded its examination of that report.

20. Mr. Tabatabaee and Mr. Mohsen-Pour (Islamic Republic of Iran) withdrew.

Dominican Republic (E/1990/5/Add.4) (continued)

21. At the invitation of the Chairman, Mrs. Bonetti-Herrera (Dominican Republic) took a place at the Committee table.

22. Mr. TIKHONOV (Secretary of the Committee) read out the following letter, addressed to the Chairman by the Government of the Dominican Republic:

> "STATEMENT FROM THE DELEGATION OF THE DOMINICAN REPUBLIC TO BE READ TO THE EXPERT MEMBERS OF THE COMMITTEE
>
> The Government of the Dominican Republic has received the questions and comments made by the Committee of Experts concerning its report to the Committee on the application of the International Covenant on Economic, Social and Cultural Rights. The Dominican authorities consider that these comments and questions must be given the most careful consideration and the most appropriate response. In order to do so, a suitable lapse of time is needed, so that updated statistics and illustrative material may be gathered in response to the inquiries of the experts. I need not remind the Committee, Mr. Chairman, that the Dominican Republic does not yet dispose of the technological capability to have its information centrally stored and readily accessible, nor is it capable of transmitting it in real time.
>
> Therefore, it is the desire of the Dominican Government that the Committee postpone the oral examination of the questionnaire concerning the application of the Covenant to any future date it may deem appropriate, but not before 10 days have passed. At this point, the members of the Committee will most probably wish to bring, once again, to the attention of the Dominican authorities, the fact that a sample list of questions had been submitted to them with ample time. This fact notwithstanding, the experts of the Committee have made comments and raised questions concerning, most particularly, denunciations of illegal evictions and violations of the rights of foreigners in Dominican territory, which, on account of their gravity, must be responded to seriously, thoroughly and with supporting evidence.

Mr. Chairman, I conclude this petitionary note by thanking you for the truly expert-like way in which you have directed so far the examination of the Dominican report and by expressing to you our desire to have, in the near future, an exchange with the members of the Committee both fruitful in terms of the assurances of a proper implementation of the provisions of the Covenant on the part of the Dominican Government, and at the same time clothed with the high standards befitting the dignity of a sovereign State and the presumed high qualifications of the experts. We hope to have an exchange in which neither side will need to resort to improper expressions and emotional attitudes which are unbecoming of government representatives and of real experts. For it is our understanding, Mr. Chairman, that the country's reports are not good or bad, nor are they comparable with those of other countries, that only about the produce of individuals can such Manichaean comparisons be made. Concerning the reports of sovereign States, who are the unique interpreters of their national interest, we believe there can only be incompleteness and absence in the amount and scope of information submitted. Moreover, Mr. Chairman, our delegation has not found, in the directives for the drafting of reports, any requirements that they should turn out to be amusing to the experts, especially on long Friday afternoons."

23. The CHAIRMAN said it was the first time in the history of the Committee that such a letter had been received from a State party. He asked whether members of the Committee had any comments to make.

24. Mr. ALSTON said he thought that the Committee could not make an immediate response to the letter, which raised a number of important points. It would be necessary to study the text before holding a discussion. His personal opinion was that the letter was a curious combination of expressions of respect for the Committee and willingness to co-operate with it, together with a number of comments of dubious propriety. In any event, the Committee was faced with a delicate situation: he thought that it had no choice but to accept the State party's request to defer receipt of full answers to its questions, since the final week of the current session had been reached. In that connection, it must take into account the difficulties faced by States parties in responding rapidly to requests for information and in that sense the Committee might welcome the suggestion that a number of the questions it had asked required detailed answers. He thought, first, that the Committee would be well advised to adopt interim conclusions on the report, bearing on the adequacy of the responses from the State party to questions it had received in good time from the pre-sessional working group, and, secondly, that the Committee should indicate that it would evaluate the responses it received at its next session in the light of the grounds on which the postponement had been sought.

25. Mr. TEXIER agreed with Mr. Alston's views. Moreover, he would like to have a translation of the letter in French. If members agreed, the preliminary conclusions could be discussed the following day, although the replies yet to be received to the Committee's oral questions would have to be discussed the following year. Not to do so would create an unfortunate precedent.

26. Mr. SPARSIS said that, since the list of issues prepared by the pre-sessional working group had been submitted to the State party on 29 October - a month before the start of the Committee's session - and the Government of the Dominican Republic had failed to find answers to the questions in a period of four weeks, he wondered how it could formulate replies in the next 10 days, especially in view of the additional matters raised by other members.

27. In view of the contemptuous tone and implications of the letter, he agreed that the Committee should take a day or so to consider its reply. Meanwhile, he agreed with Mr. Texier that there was nothing to prevent the Committee from making its preliminary observations on the report.

28. Mr. KONATE considered that the letter from the Permanent Mission of the Dominican Republic impugned the integrity of the experts on the Committee and was an attempt to intimidate them. Nothing in the discussion had justified the improper and unacceptable language used in the letter.

29. The CHAIRMAN suggested that the Committee should return to the question of the letter at a later meeting. The Committee might, in its concluding observations, ask for further information from the Dominican Republic, recommending a deadline of, say, two months.

30. Mr. ALSTON endorsed those views. The letter should be translated and consultations should be held to reach a common position.

31. Mr. KONATE considered that all the members of the Committee should give their reactions immediately, in the presence of the representative of the Dominican Republic.

32. Mr. TEXIER said that the letter, to which the Committee would have to reply, seemed to cast doubt on the expert qualifications of the members. However, he needed to see the text in French before coming to a final conclusion.

33. The CHAIRMAN suggested that Mr. Texier should make the concluding observations on the report of the Dominican Republic the following day, taking into account the preliminary comments made by members of the Committee.

34. Mr. ALVAREZ VITA said that, since the letter emanated from a Spanish-speaking Mission, it had probably been drafted in Spanish and then translated into English. He therefore asked if the representative of the Dominican Republic could provide the Committee with the text as drafted in Spanish.

35. Mr. TEXIER said that he was quite prepared to present conclusions on the report the following day but that the letter of the Permanent Mission of the Dominican Republic should be considered separately.

36. Mr. MARCHAN ROMERO said that, since the letter from the Permanent Mission of the Dominican Republic had linked the questions of the report and the conclusions, he believed that the letter would have to be mentioned in the conclusions. The letter contained several statements that he found unacceptable, including the expression "improper expressions and emotional attitudes". Moreover, it was precisely the Committee's role to evaluate reports from States parties. The Committee did not compare the reports of States: its sole frame of reference was compliance with the Covenant.

37. Mrs. JIMENEZ BUTRAGUEÑO endorsed those views. She, too, would be pleased if the delegation of the Dominican Republic could provide the text of the letter in Spanish.

38. Mr. NENEMAN pointed out that States parties that ratified the Covenant assumed obligations, one of which was to provide sufficiently informative reports to the Committee. Another was to send a reasonably knowledgeable delegation to answer the questions put by the members of the Committee. The Committee was merely trying to fulfil its mandate by pointing out that those two elements were absent.

39. It would be wiser for the Committee to concentrate mainly on the first part of the letter, in which the Permanent Mission stated that it was unable to respond to the questions and requested a deferment. The form of the Committee's answer to the letter should be discussed at another meeting.

40. Mr. WIMER ZAMBRANO said there seemed to be basic agreement that the Committee should proceed with the report of the Dominican Republic independently of the letter, which should be considered in greater detail at another stage.

41. He asked the representative of the Dominican Republic to note the surprise and regret of all the members of the Committee at the language used in the letter. The Government of the Dominican Republic had clearly misunderstood and found inappropriate the Committee's comments and requests.

42. Mr. ALVAREZ VITA said the report should reflect the extent to which the oral questions of members remained unanswered and the fact that the Committee would receive replies as additional information in the usual way.

43. He found it hard to understand how a Permament Mission could draft a letter such as the one sent by that of the Dominican Republic. He had wondered whether the translation was inaccurate and had therefore asked for the original Spanish text. That of course did not detract from the responsibility of the Minister Counsellor in signing the letter. However, if the original letter in Spanish corresponded to the English version - and for the moment he would reserve judgement on that point - the Committee would have no choice but to express its regret in the report. Moreover, the text of the original letter and the translation should be annexed to the Committee's report.

44. He asked the representative of the Dominican Republic to try to understand the intent and content of the Committee's work. Had the Dominican Republic been familiar with the Committee's consideration of reports by other States parties and its comments thereon, there might not have been a reference to comparisons in the letter of the Permanent Mission.

45. Mr. ALSTON said he could not endorse the proposal to request the State party to provide a Spanish-language text. The tone of the letter in English was authoritative enough, and the style revealed an excellent command of the language. If the Spanish-language version proved to be less strongly worded, the Committee would be in a quandary as to which version to use. The text before the Committee should be taken as the authentic version, and it should be translated into all the Committee's working languages, including Spanish, by the Languages Service.

46. Unlike many Committee members, he believed that observations on the Dominican Republic's report ought to be adopted at the current session. They should be provisional in nature, however, pending receipt of additional information. The Committee's overriding interest was to obtain a detailed set of responses from the State party, and it should leave open all doors that might bring in new information. It could give observations now on the dialogue that had just taken place, while indicating that its concluding observations would be adopted at the next session, on the basis of any additional information that might be received. For example, the Committee might say it was of the view that a violation of the right to housing had taken place, although final judgement must be reserved until further information had been received.

47. Mrs. BONETTI-HERRERA (Dominican Republic) said she believed that the original text of the letter had been in Spanish and that it had been translated into English at Geneva.

48. Mr. MARCHAN ROMERO said the formulation of provisional observations would create a dangerous precedent that would not serve the Committee's purposes. It would signal to States that delaying tactics would be successful.

49. Mr. ALSTON said that that was true, but that if, by its next session, the Committee had not received satisfactory additional information, it could make its concluding observations sharper. The State party should be credited with acting in good faith - at least until it had been shown to have been doing otherwise.

50. Mr. WIMER ZAMBRANO agreed with Mr. Alston that the Committee's observations should be provisional in nature, pending the receipt of additional information on which to base concluding observations. He requested the Secretariat to explain how a letter drafted in Spanish had been submitted to the Committee in an English-language version.

51. Mr. TIKHONOV (Secretary of the Committee) said that neither the Committee's secretariat nor the Centre for Human Rights had seen a Spanish text of the letter. The English text before the Committee had been received in the course of the current meeting.

52. Mrs. JIMENEZ BUTRAGUEÑO said that, in the light of the comments made by Mr. Alston, she would withdraw her request for a Spanish-language version of the letter; the English-language version before the Committee should be taken as the definitive text.

53. Mrs. BONETTI-HERRERA (Dominican Republic) said that, upon referring to her notes, she saw that the original text of the letter had in fact been the English version now before the Committee.

54. The CHAIRMAN announced that the letter would be submitted for translation, and would be available in all of the Committee's working languages either that day or the next.

55. Mr. NENEMAN said he did not endorse the proposals on provisional observations. He had already suggested that the formulation of concluding observations should be postponed until the Committee's next session.

56. Mr. FOFANA said the Committee should give due consideration to harmonizing its approach to reports that, for whatever reason, it had been unable to consider in full. At the current session, such was the case with two reports: that of Jordan, for which the Committee had already decided not to formulate concluding observations, and that of the Dominican Republic.

57. Mr. TEXIER said he did not agree that consideration of the concluding observations should be deferred until the next session. Sovereign States could give any explanations they wanted of their behaviour, or could decline to explain it at all, but the Committee was required to draw some conclusions from its dialogue with them. On housing and expulsions, for example, the Committee might conclude that it did not concur with the State party's claim that it was complying with the Covenant's provisions.

58. Mr. MARCHAN ROMERO fully endorsed Mr. Texier's comments.

59. Mr. MRATCHKOV said he, too, thought the Committee must adopt its concluding observations on the basis of the information before it now. It had already received answers, satisfactory or otherwise, to over 50 written questions. By its next session, it might have received additional information, and could then formulate further observations. The Committee's response to the letter, which was a matter entirely separate from the concluding observations, must be decided on first.

60. Mr. SPARSIS said he feared the letter had achieved the purpose for which it had perhaps been sent, namely to delay any decision by the Committee on the substance of the report. He therefore proposed that further discussion should be deferred, pending informal consultations among Committee members on the course of action to adopt.

61. The CHAIRMAN, summing up the discussion, said he believed that most members of the Committee were in favour of formulating concluding observations on the report of the Dominican Republic. He thanked the representative of the Dominican Republic for being present during the Committee's discussion of the report.

62. Mrs. BONETTI-HERRERA (Dominican Republic) withdrew.

ORGANIZATION OF WORK (agenda item 4) (continued)

Reply to the note verbale of 4 May 1990 from the Republic of Argentina addressed to the Chairman of the Committee on Economic, Social and Cultural Rights

63. Mr. WIMER ZAMBRANO said that, in general, the letter drafted in response to the note verbale of 4 May 1990 reflected the views expressed in the Committee concerning the reply to be sent to the Argentine Government. The persons who had drafted the note verbale had taken careful account of the views expressed in the Committee about the irregular procedure followed. The note verbale did not question the integrity of the members of the Committee.

64. The draft reply should be shorter, make it clear that the Committee could not agree to anyone telling it how to conduct its meetings and indicate that the members regretted the misunderstanding which had arisen.

65. Mrs. JIMENEZ BUTRAGUEÑO she agreed to some extent with the comments made by Mr. Wimer Zambrano. The draft reply should express once again the Committee's regrets that its comments concerning ethnic communities in Argentina might have given rise to a misunderstanding.

66. Mr. KONATE said that he disapproved entirely of the note verbale from Argentina.

67. With regard to the summary records mentioned in the note, he thought that they did not accurately reflect the situation, since he himself had referred on several occasions to the issue of indigenous minorities even before the statement by the non-governmental organization in question had been submitted.

68. He supported Mr. Wimer Zambrano's proposal, reaffirming the independence of the Committee. He saw no reason why the Committee should bow down before a Government because of its objection to a particular non-governmental organization. He agreed that the letter should contain another paragraph, in which the Committee would express its regret for the misunderstanding that had arisen. In that regard, he said that, whenever a Latin American country had appeared before the Committee and had been asked questions about indigenous minorities, it had failed to reply to them. In his opinion, the summary records in question did not properly reflect the Committee's concern regarding the question of minorities.

69. He also thought that the letter was too long and should be shortened.

70. Mr. WIMER ZAMBRANO endorsed Mr. Konate's comments. The letter should be brief. It should stress the independence of the Committee and express regrets for the misunderstanding.

71. Mr. TEXIER endorsed the views expressed by Mr. Wimer Zambrano. The Committee should reaffirm its independence and the fact that it could make use of any source of information. He was convinced that a misunderstanding had occurred. The Committee's working methods were being challenged, a situation which it could not accept.

72. The CHAIRMAN suggested that the Rapporteur and the members of the Committee who had just spoken might meet to consider a revised draft reply to the Argentine Government.

73. Mr. ALSTON suggested that he should produce a fresh draft in the course of the morning, which should be circulated in English for their comments to the members of the Committee mentioned by the Chairman.

74. It was so decided.

Reports pending consideration by the Committee

75. The CHAIRMAN drew the Committee's attention to the list of reports pending consideration by the Committee as of 1 December 1990 which had been circulated by the Secretariat. In all, there were 21 pending reports, and in the case of some of them the pre-sessional working group had already drawn up a list of issues which had been sent to the State party concerned. He invited the views of members of the Committee on the number of reports which should be scheduled for consideration at its next session.

76. Mr. ALSTON said that it would probably be wise to follow the same approach as at the current session, when 13 reports from States parties had been scheduled for examination. It was advisable to have a firm undertaking from the States parties concerned that they would send a delegation to appear before the Committee. Furthermore, it was essential that the Committee should leave itself a full day for the general discussion at its next session. What had happened in that respect at the current session should not be taken as a precedent. He therefore suggested that the Committee should schedule for consideration the first 13 reports on the Secretariat's list, namely the reports of Afghanistan (E/1984/6/Add.12), Panama (E/1984/6/Add.19, E/1986/4/Add.22, E/1988/5/Add.8), Democratic Yemen (E/1990/5/Add.2), the Democratic People's Republic of Korea (E/1988/5/Add.6), the Syrian Arab Republic (E/1990/6/Add.1), Finland (E/1990/7/Add.1), Sweden (E/1990/7/Add.2), Spain (E/1990/7/Add.3), Colombia (E/1990/7/Add.4), the Byelorussian SSR (E/1990/7/Add.5) and the Czech and Slovak Federal Republic (E/1990/7/Add.6).

77. Mr. MRATCHKOV agreed that the first seven reports on the list should be scheduled for consideration, since they had been postponed from the current session. He wondered, however, whether the report from Nicaragua (E/1986/3/Add.15) should not then be considered, since it dated from 1986, followed by the reports of Finland, Sweden, Spain, Colombia and the Byelorussian SSR. Moreover, the additional information from Jamaica (E/1989/5/Add.4) ought to be given some priority.

78. Mr. ALSTON agreed that the additional information from Jamaica should be considered at the Committee's next session. With regard to the Nicaraguan report, he would like to have some clarification from the representative of the Secretary-General. He felt that a misunderstanding might have arisen from the fact that the date given in the symbol number of a report from a State party did not refer to the year in which it was actually received but to the year in which it fell due. He believed that the order in which the reports were listed by the Secretariat reflected the chronological order in which they had been received. There was therefore no need to bring forward the initial report from Nicaragua.

79. Mrs. KLEIN (Representative of the Secretary-General) confirmed Mr. Alston's understanding of the matter. The report from Nicaragua had been received in early 1990, after those reports preceding it in the Secretariat's list.

80. Mr. MRATCHKOV said that, after hearing the explanation from the representative of the Secretary-General, he did not insist on bringing Nicaragua's report forward.

81. The CHAIRMAN said that, if there was no objection, he would take it that the Committee agreed that, at its next session, the first 13 reports on the Secretariat's list, together with the additional information from Jamaica, should be scheduled for consideration.

82. It was so decided.

Pre-sessional working group

83. Mr. ALSTON, advancing suggestions for the mandate of the pre-sessional working group for the Committee's next session, said the group should have four major responsibilities. First, it should prepare the list of issues for all States party reports to be considered at the session, or revise the lists that had already been prepared. Secondly, it should examine additional information received from States parties under the Committee's new procedures, with a view to making recommendations to the Committee. Thirdly, it should undertake a first reading of any general comments that were available, and make proposals thereon to the Committee. Fourthly, it should decide on a topic for the Committee's general discussion and consider the possibility of inviting additional experts to attend. In short, the working group's mandate should be not just to prepare or update lists of issues, but to do everything necessary to facilitate the Committee's work at its next session.

84. The CHAIRMAN said that, if there was no objection, he would take it that those proposals concerning the mandate for the pre-sessional working group were adopted.

85. It was so decided.

The meeting rose at 12.50 p.m.